

1 CRIMINAL LAW AMENDMENTS  
2 SWAP Discussion Draft 8-3-15 12:20 p.m.

3 Section 1. 41-6a-401.7(6) is amended to read:

4 **41-6a-401.7. Accident involving injury, death, or property damage -- Duties**  
5 **of operator, occupant, and owner -- Exchange of information -- Notification**  
6 **of law enforcement -- Penalties.**

7 (1) The operator of a vehicle involved in an accident under Section 41-6a-401.3  
8 or 41-6a-401.5 shall:

9 (a) give to the persons involved:

10 (i) the operator's name, address, and the registration number of the vehicle  
11 being operated; and

12 (ii) the name of the insurance provider covering the vehicle being operated  
13 including the phone number of the agent or provider;

14 (b) upon request and if available, exhibit the operator's license to:

15 (i) any investigating peace officer present;

16 (ii) the person struck;

17 (iii) the operator, occupant of, or person attending the vehicle or other property  
18 damaged in the accident; and

19 (iv) the owner of property damaged in the accident, if present; and

20 (c) render to any person injured in the accident reasonable assistance, including  
21 transporting or making arrangements for transporting, of the injured person to a  
22 physician or hospital for medical treatment if:

23 (i) it is apparent that treatment is necessary; or

24 (ii) transportation is requested by the injured person.

25 (2) The operator of a vehicle involved in an accident under Section 41-6a-401.3  
26 or 41-6a-401.5 shall immediately and by the quickest means of communication  
27 available give notice or cause to give notice of the accident to the nearest office of  
28 a law enforcement agency.

29 (3) The occupant of a vehicle involved in an accident under Section  
30 41-6a-401.3 or 41-6a-401.5 who is not the operator of the vehicle shall give or  
31 cause to give the immediate notice required under Subsection (2) if:

32 (a) the operator of a vehicle involved in an accident is physically incapable of  
33 giving the notice; and

34 (b) the occupant is capable of giving an immediate notice.

35 (4) Except as provided under Subsection (5), if a vehicle or other property  
36 damaged in the accident is unattended, the operator of the vehicle involved in the  
37 accident shall:

38 (a) locate and notify the operator or owner of the vehicle or the owner of other

property damaged in the accident of the operator's name, address, and the registration number of the vehicle causing the damage; or

(b) attach securely in a conspicuous place on the vehicle or other property a written notice giving the operator's name, address, and the registration number of the vehicle causing the damage.

(5) The operator of a vehicle that provides the information required under this section to an investigating peace officer at the scene of the accident is exempt from providing the information to other persons required under this section.

(6) A violation of ~~[this section]~~ Subsection (4) is a class C misdemeanor.

Section 2. Section 76-6-206 is amended to read:

**76-6-206. Criminal trespass.**

(1) As used in this section, "enter" means intrusion of the entire body.

(2) A person is guilty of criminal trespass if, under circumstances not amounting to burglary as defined in Section 76-6-202, 76-6-203, or 76-6-204 or a violation of Section 76-10-2402 regarding commercial obstruction:

(a) the person enters or remains unlawfully on property and:

(i) intends to cause annoyance or injury to any person or damage to any property, including the use of graffiti as defined in Section 76-6-107;

(ii) intends to commit any crime, other than theft or a felony; or

(iii) is reckless as to whether his presence will cause fear for the safety of another;

(b) knowing the person's entry or presence is unlawful, the person enters or remains on property as to which notice against entering is given by:

(i) personal communication to the actor by the owner or someone with apparent authority to act for the owner;

(ii) fencing or other enclosure obviously designed to exclude intruders; or

(iii) posting of signs reasonably likely to come to the attention of intruders; or

(c) the person enters a condominium unit in violation of Subsection 57-8-7(8).

(3)

(a) A violation of Subsection (2)(a) or (b) is a class B misdemeanor unless it was committed in a dwelling, in which event it is a class A misdemeanor.

(b) A violation of Subsection (2)(c) is an infraction.

~~[(4) It is a defense to prosecution under this section that:~~

~~(a) the property was at the time open to the public; and~~

~~(b) the actor complied with all lawful conditions imposed on access to or remaining on the property.]~~

75 Section 3. Section 76-10-503 is amended to read:

76 **76-10-503. Restrictions on possession, purchase, transfer, and ownership of**  
77 **dangerous weapons by certain persons -- Exceptions.**

78 (1) For purposes of this section:

79 (a) A Category I restricted person is a person who:

80 (i) has been convicted of any violent felony as defined in Section 76-3-203.5;

81 (ii) is on probation or parole for any felony;

82 (iii) is on parole from a secure facility as defined in Section 62A-7-101;

83 (iv) within the last 10 years has been adjudicated delinquent for an offense  
84 which if committed by an adult would have been a violent felony as defined in  
85 Section 76-3-203.5;

86 (v) is an alien who is illegally or unlawfully in the United States; or

87 (vi) is on probation for a conviction of possessing:

88 (A) a substance classified in 58-37-4 as a Schedule I [or] controlled substance  
89 other than marijuana, a Schedule II controlled substance [in Section 58-37-8, or];

90 (B) a controlled substance analog; or

91 (C) a substance listed in Section 58-37-4.2.

92 (b) A Category II restricted person is a person who:

93 (i) has been convicted of any felony;

94 (ii) within the last seven years has been adjudicated delinquent for an offense  
95 which if committed by an adult would have been a felony;

96 (iii) is an unlawful user of a controlled substance as defined in Section 58-37-2;

97 (iv) is in possession of a dangerous weapon and is knowingly and intentionally  
98 in unlawful possession of a Schedule I or II controlled substance as defined in  
99 Section 58-37-2;

100 (v) has been found not guilty by reason of insanity for a felony offense;

101 (vi) has been found mentally incompetent to stand trial for a felony offense;

102 (vii) has been adjudicated as mentally defective as provided in the Brady  
103 Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or  
104 has been committed to a mental institution;

105 (viii) has been dishonorably discharged from the armed forces; or

106 (ix) has renounced his citizenship after having been a citizen of the United  
107 States.

108 (c) As used in this section, a conviction of a felony or adjudication of  
109 delinquency for an offense which would be a felony if committed by an adult does  
110 not include:

111 (i) a conviction or adjudication of delinquency for an offense pertaining to  
112 antitrust violations, unfair trade practices, restraint of trade, or other similar  
113 offenses relating to the regulation of business practices not involving theft or

114 fraud; or

115 (ii) a conviction or adjudication of delinquency which, according to the law of  
116 the jurisdiction in which it occurred, has been expunged, set aside, reduced to a  
117 misdemeanor by court order, pardoned or regarding which the person's civil rights  
118 have been restored unless the pardon, reduction, expungement, or restoration of  
119 civil rights expressly provides that the person may not ship, transport, possess, or  
120 receive firearms.

121 (d) It is the burden of the defendant in a criminal case to provide evidence that a  
122 conviction or adjudication of delinquency is subject to an exception provided in  
123 Subsection (1)(c), after which it is the burden of the state to prove beyond a  
124 reasonable doubt that the conviction or adjudication of delinquency is not subject  
125 to that exception.

126 (2) A Category I restricted person who intentionally or knowingly agrees,  
127 consents, offers, or arranges to purchase, transfer, possess, use, or have under the  
128 person's custody or control, or who intentionally or knowingly purchases,  
129 transfers, possesses, uses, or has under the person's custody or control:

130 (a) any firearm is guilty of a second degree felony; or

131 (b) any dangerous weapon other than a firearm is guilty of a third degree  
132 felony.

133 (3) A Category II restricted person who intentionally or knowingly purchases,  
134 transfers, possesses, uses, or has under the person's custody or control:

135 (a) any firearm is guilty of a third degree felony; or

136 (b) any dangerous weapon other than a firearm is guilty of a class A  
137 misdemeanor.

138 (4) A person may be subject to the restrictions of both categories at the same  
139 time.

140 (5) If a higher penalty than is prescribed in this section is provided in another  
141 section for one who purchases, transfers, possesses, uses, or has under this custody  
142 or control any dangerous weapon, the penalties of that section control.

143 (6) It is an affirmative defense to a charge based on the definition in Subsection  
144 (1)(b)(iv) that the person was:

145 (a) in possession of a controlled substance pursuant to a lawful order of a  
146 practitioner for use of a member of the person's household or for administration to  
147 an animal owned by the person or a member of the person's household; or

148 (b) otherwise authorized by law to possess the substance.

149 (7)

150 (a) It is an affirmative defense to transferring a firearm or other dangerous  
151 weapon by a person restricted under Subsection (2) or (3) that the firearm or  
152 dangerous weapon:

- 153 (i) was possessed by the person or was under the person's custody or control  
154 before the person became a restricted person;  
155 (ii) was not used in or possessed during the commission of a crime or subject to  
156 disposition under Section 24-3-103;  
157 (iii) is not being held as evidence by a court or law enforcement agency;  
158 (iv) was transferred to a person not legally prohibited from possessing the  
159 weapon; and  
160 (v) unless a different time is ordered by the court, was transferred within 10  
161 days of the person becoming a restricted person.

162 (b) Subsection (7)(a) is not a defense to the use, purchase, or possession on the  
163 person of a firearm or other dangerous weapon by a restricted person.

164 (8)

165 (a) A person may not sell, transfer, or otherwise dispose of any firearm or  
166 dangerous weapon to any person, knowing that the recipient is a person described  
167 in Subsection (1)(a) or (b).

168 (b) A person who violates Subsection (8)(a) when the recipient is:

169 (i) a person described in Subsection (1)(a) and the transaction involves a  
170 firearm, is guilty of a second degree felony;

171 (ii) a person described in Subsection (1)(a) and the transaction involves any  
172 dangerous weapon other than a firearm, and the transferor has knowledge that the  
173 recipient intends to use the weapon for any unlawful purpose, is guilty of a third  
174 degree felony;

175 (iii) a person described in Subsection (1)(b) and the transaction involves a  
176 firearm, is guilty of a third degree felony; or

177 (iv) a person described in Subsection (1)(b) and the transaction involves any  
178 dangerous weapon other than a firearm, and the transferor has knowledge that the  
179 recipient intends to use the weapon for any unlawful purpose, is guilty of a class A  
180 misdemeanor.

181 (9)

182 (a) A person may not knowingly solicit, persuade, encourage or entice a dealer  
183 or other person to sell, transfer or otherwise dispose of a firearm or dangerous  
184 weapon under circumstances which the person knows would be a violation of the  
185 law.

186 (b) A person may not provide to a dealer or other person any information that  
187 the person knows to be materially false information with intent to deceive the  
188 dealer or other person about the legality of a sale, transfer or other disposition of a  
189 firearm or dangerous weapon.

190 (c) "Materially false information" means information that portrays an illegal  
191 transaction as legal or a legal transaction as illegal.

- (d) A person who violates this Subsection (9) is guilty of:
- (i) a third degree felony if the transaction involved a firearm; or
  - (ii) a class A misdemeanor if the transaction involved a dangerous weapon other than a firearm.

Section 4. Section 77-18-1.1 is amended to read:

**77-18-1.1 Screening, assessment, and treatment.**

(1) As used in this section:

(a) "Assessment" has the same meaning as in Section 41-6a-501.

(b) "Convicted" means:

(i) a conviction by entry of a plea of guilty or nolo contendere, guilty with a mental illness, or no contest; and

(ii) conviction of any crime or offense.

(c) "Screening" has the same meaning as in Section 41-6a-501.

(d) "Substance abuse treatment" means treatment obtained through a substance abuse program that is licensed by the Office of Licensing within the Department of Human Services.

(2) On or after July 1, 2009, the courts of the judicial districts where the Drug Offender Reform Act under Section 63M-7-305 is implemented shall, in coordination with the local substance abuse authority regarding available resources, order ~~[offenders convicted of a felony]~~ convicted offenders determined to be eligible under the implementation plan developed by the Utah Substance Abuse Advisory Council as provided in Section 63M-7-305 to:

(a) participate in a screening prior to sentencing;

(b) participate in an assessment prior to sentencing if the screening indicates an assessment to be appropriate; and

(c) participate in substance abuse treatment if:

(i) the assessment indicates treatment to be appropriate;

(ii) the court finds treatment to be appropriate for the offender; and

(iii) the court finds the offender to be an appropriate candidate for community-based supervision.

(3) The findings from any screening and any assessment conducted under this section shall be part of the presentence investigation report submitted to the court before sentencing of the offender.

(4) Money appropriated by the Legislature to assist in the funding of the screening, assessment, substance abuse treatment, and supervision provided under this section is not subject to any requirement regarding matching funds from a state or local governmental entity.